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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/966,264

09/28/2001

Elizabeth K. Barber

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06/27/2006

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EXAMINER

KAUSHAL, SUMESH

ART UNIT

PAPER NUMBER

1633

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/966,264

Applicant(s)

BARBER, ELIZABETH K.

Examiner

Sumesh Kaushal Ph.D.

Art Unit

1633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,8-14,16-18,22,23 and 41-44 is/are pending in the application.
4a) Of the above claim(s) is/are withdrawn from consideration.
5) ☒ Claim(s) 1,2,5,8,10-13,18,22,23 and 41-44 is/are allowed.
6) ☒ Claim(s) 14,16 and 17 is/are rejected.
7) ☒ Claim(s) 9 is/are objected to.
8) ☐ Claim(s) are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u> </u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u> </u> | 6) <input type="checkbox"/> Other: <u> </u> |

DETAILED ACTION

Applicant's response filed on 4/5/06 has been acknowledged.

Claims 1-2, 5, 8-14, 16-18, 22-23 and, 41-44 are pending and are examined in this office action.

*Applicants are required to follow Amendment Practice under revised 37 CFR §1.121. The fax phone numbers for the organization where this application or proceeding is assigned is **571-273-8300**.*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The references cited herein are of record in a prior Office action.

Claim Rejections - 35 USC § 112

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation "said polynucleotide. There is insufficient antecedent basis for this limitation in the claim because it is unclear whether the limitation as claimed refer back to the polynucleotide of claim 1 or isolated polynucleotide that hybridizes to the polynucleotide of claim 1.

Claim 16-17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "said SEQ ID NO:1" in lines 2. There is insufficient antecedent basis for this limitation in the claim.

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Claim Objections

Claim 9 is objected to because of the following informalities: Claim 9 recites "a fragment of nucleotides 710-996 of SEQ ID NO:2 comprising nucleotides 850-996 of SEQ ID NO:2" in lines 2-3. Changing the instant claim limitation to -- a fragment of nucleotides 710-996 of SEQ ID NO:2 wherein the said fragment comprises ~~comprising~~ nucleotides 850-996 of SEQ ID NO:2 -- has been suggested. Appropriate correction is required.

Conclusion

Claims 1-2, 5, 8, 10-13, 18, 22-23 and 41-44 are allowed. The instant claims are free of prior art of record because the prior art does not teach or suggest the polynucleotide sequences of SEQ ID NO:2.


Claims 14 and 16-17 are rejected.

Claim 9 is objected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumesh Kaushal Ph.D. whose telephone number is 571-272-0769. The examiner can normally be reached on Mon-Fri. from 9AM-5PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Nguyen can be reached on 571-272-0731.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to **571-272-0547**. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**


SUMESH KAUSHAL
PRIMARY EXAMINER
ART UNIT 1633